

105TH CONGRESS
2D SESSION

H. R. 4585

To establish the Northwest Straits Advisory Commission.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1998

Mr. METCALF introduced the following bill; which was referred to the
Committee on Resources

A BILL

To establish the Northwest Straits Advisory Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northwest Straits Ma-
5 rine Conservation Initiative Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) The Congress hereby finds that—

8 (1) Puget Sound and the inland marine waters
9 of Washington State, and more specifically the ma-
10 rine waters and ecosystem of the Northwest Straits
11 as defined in this Act, represent a unique and un-
12 paralleled resource of enormous environmental and

1 economic value to the people of the region and the
2 Nation in this and future generations;

3 (2) despite considerable research and regulatory
4 efforts and financial investments, current efforts
5 have failed to protect natural habitats and fish and
6 wildlife populations adequately in these waters;

7 (3) as a result, species of fish, shellfish,
8 seabirds, mammals, and marine invertebrates have
9 undergone substantial declines in regional population
10 abundance in recent years, in part because the in-
11 ventory of nearshore habitats has reached critically
12 low levels, and existing restorative measures are
13 clearly inadequate to replace lost habitats;

14 (4) it is the scientific consensus that efforts
15 should focus on habitat preservation, on assessment
16 and conservation of stocks of fish, invertebrates,
17 birds, and marine mammals, on reducing waste dis-
18 posal and contaminated runoff, and on developing
19 compatible environmental regulations on both sides
20 of the international boundary with Canada; and

21 (5) by the year 2020, human population in this
22 region of the United States and Canada is projected
23 to increase by more than 50 percent, so that just to
24 maintain present quality of life and sustain present
25 economic activities that are dependent upon a

1 healthy marine ecosystem, and to keep marine wa-
2 ters and ecosystem from deteriorating further, re-
3 quires significantly reducing the collective environ-
4 mental burdens caused by shoreline development,
5 fish catch, and waste discharge that impact these
6 marine waters.

7 (b) The Congress finds and declares the purposes of
8 this Act to be—

9 (1) to develop and test innovative intergovern-
10 mental arrangements that may prove effective in
11 helping to reverse the degradation of the marine eco-
12 system of the Northwest Straits by encouraging and
13 supporting the concern, initiative, and capabilities of
14 the people who reside in this area and their local
15 governments, thus enhancing the collective efforts of
16 all levels of government; and

17 (2) to foster improved resource protection, the
18 preservation of commercial values and diverse ways
19 of life, full cooperation with Indian tribes, additional
20 research, education, and interpretation, maximum
21 cooperation by all Federal agencies with the State
22 and local governments and Indian tribes, and inter-
23 national cooperation with Canada, in order to en-
24 hance the protection and restoration of the natural
25 habitats and values of the Northwest Straits.

1 **SEC. 3. ESTABLISHMENT.**

2 There is established a commission to be known as the
3 Northwest Straits Advisory Commission.

4 **SEC. 4. DUTIES.**

5 The Commission shall coordinate with and com-
6 plement the activities of appropriate authorities at the
7 Federal, State, local, and tribal levels to work to achieve
8 the benchmarks set forth in section 9(b)(2) by—

9 (1) monitoring the overall health of the marine
10 ecosystem of the Northwest Straits;

11 (2) developing scientifically sound economic
12 measurements of the costs, both direct and indirect,
13 of ecosystem degradation and environmental protec-
14 tion with respect to the marine ecosystem of the
15 Northwest Straits;

16 (3) identifying trends and activities adversely
17 affecting, or preventing the restoration of, the health
18 of the marine ecosystem of the Northwest Straits;

19 (4) developing scientifically sound restoration
20 recommendations, informed by the economic meas-
21 urements, that address such matters for action by
22 the appropriate authorities;

23 (5) providing the restoration recommendations
24 and the economic measurements to the appropriate
25 authorities;

1 (6) helping facilitate the successful implementa-
2 tion of the recommendations by developing broad
3 support for the recommendations among the appro-
4 priate authorities, stakeholder groups, and the gen-
5 eral public;

6 (7) serving as a public forum for the discussion
7 of Federal, State, local, tribal, and Canadian policies
8 and actions with respect to the marine ecosystem of
9 the Northwest Straits;

10 (8) informing appropriate authorities and the
11 general public about the marine ecosystem of the
12 Northwest Straits and about issues relating to the
13 marine ecosystem of the Northwest Straits;

14 (9) consulting with all affected federally recog-
15 nized tribes in the region of the Northwest Straits
16 to ensure that the work of the Commission does not
17 violate tribal treaty rights; and

18 (10) consulting with and encouraging the par-
19 ticipation of appropriate Federal agencies and State
20 and regional entities in the deliberations of the Com-
21 mission.

22 **SEC. 5. MEMBERSHIP.**

23 (a) NUMBER AND APPOINTMENT.—The Commission
24 shall be composed of up to 13 members, who shall be ap-
25 pointed, subject to subsection (b), as follows:

1 (1) Up to 7 members, each one appointed by a
 2 consensus of the members of a marine resource com-
 3 mittee established in accordance with section 8, 1
 4 each by the following counties in the State of Wash-
 5 ington:

6 (A) San Juan County.

7 (B) Island County.

8 (C) Skagit County.

9 (D) Whatcom County.

10 (E) Snohomish County.

11 (F) Clallam County.

12 (G) Jefferson County.

13 (2) 1 member, appointed by the Secretary of
 14 the Interior in trust capacity, to represent the inter-
 15 ests of the affected Indian tribes.

16 (3) 1 member appointed by the Governor of the
 17 State of Washington to represent the Puget Sound
 18 Water Quality Action Team.

19 (4) Up to 4 members appointed by the Gov-
 20 ernor of the State of Washington from among citi-
 21 zens of the State of Washington who are not govern-
 22 mental officials.

23 (b) LIMITATION ON NONCOUNTY APPOINTMENTS.—

24 The aggregate number of members appointed under para-
 25 graphs (2), (3), and (4) of subsection (a) may not exceed

1 the number of members appointed under paragraph (1)
2 of subsection (a).

3 (c) VACANCIES.—Any member appointed to fill a va-
4 cancy occurring before the expiration of the term for which
5 the member's predecessor was appointed shall be ap-
6 pointed only for the remainder of that term. A member
7 may serve after the expiration of that member's term until
8 a successor has taken office. A vacancy in the Commission
9 shall be filled in the manner in which the original appoint-
10 ment was made. A vacancy in a position to be appointed
11 under subsection (a)(1) occurring after the first appoint-
12 ment of a member to that position shall not affect the
13 number of members authorized under paragraphs (2), (3),
14 and (4) of subsection (a).

15 (d) BASIC PAY.—Members shall serve without pay.

16 (e) TRAVEL EXPENSES.—Each member shall receive
17 travel expenses, including per diem in lieu of subsistence,
18 in accordance with sections 5702 and 5703 of title 5,
19 United States Code.

20 (f) QUORUM.—A majority of the members of the
21 Commission shall constitute a quorum but a lesser number
22 may hold hearings.

23 (g) SUPERMAJORITY.—Unless otherwise specified in
24 this Act or other law, an action of the Commission must

1 be approved by at least three-fifths of the members
2 present at a meeting at which a quorum is present.

3 (h) CHAIRPERSON.—The Commission shall select a
4 Chairperson from among its members. Any vacancy in the
5 office of the Chairperson shall be filled in the manner in
6 which the original selection was made.

7 (i) MEETINGS.—The Commission shall meet at the
8 call of the Chairperson, but not less frequently than quar-
9 terly.

10 **SEC. 6. DIRECTOR AND STAFF; EXPERTS AND CONSULT-**
11 **ANTS.**

12 (a) DIRECTOR.—The Commission shall appoint and
13 fix the pay of a Director.

14 (b) STAFF.—The Director may appoint and fix the
15 pay of additional personnel as the Director considers ap-
16 propriate.

17 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
18 LAWS.—The Director and staff of the Commission shall
19 be appointed without regard to the provisions of title 5,
20 United States Code, governing appointments in the com-
21 petitive service, and may be paid without regard to the
22 provisions of chapter 51 and subchapter III of chapter 53
23 of that title relating to classification and General Schedule
24 pay rates, except that an individual so appointed may not
25 receive pay at a rate in excess of \$75,000 per year.

1 (d) EXPERTS AND CONSULTANTS.—The Commission
2 may procure temporary and intermittent services under
3 section 3109(b) of title 5, United States Code, but at rates
4 for individuals not to exceed \$75,000 per year.

5 (e) STAFF OF FEDERAL AGENCIES.—Upon request
6 of the Commission, the head of any Federal department
7 or agency may detail, on a reimbursable or nonreimburs-
8 able basis, any of the personnel of that department or
9 agency to the Commission to assist it in carrying out its
10 duties under this Act.

11 **SEC. 7. POWERS.**

12 (a) HEARINGS AND SESSIONS.—The Commission
13 may, for the purpose of carrying out this Act, hold hear-
14 ings, sit and act at times and places, take testimony, and
15 receive evidence as the Commission considers appropriate.

16 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
17 ber or agent of the Commission may, if authorized by the
18 Commission, take any action which the Commission is au-
19 thorized to take by this section.

20 (c) OBTAINING OFFICIAL DATA.—The Commission
21 may secure directly from any department or agency of the
22 United States information necessary to enable it to carry
23 out this Act. Upon request of the Chairperson of the Com-
24 mission, the head of that department or agency shall fur-
25 nish that information to the Commission.

1 (d) GIFTS, BEQUESTS, AND DEVISES.—The Commis-
2 sion may accept, use, and dispose of gifts, bequests, or
3 devises of services or property, both real and personal, for
4 the purpose of aiding or facilitating the work of the Com-
5 mission. Gifts, bequests, or devises of money and proceeds
6 from sales of other property received as gifts, bequests,
7 or devises shall be deposited in the Treasury and shall be
8 available for disbursement upon order of the Commission.

9 (e) MAILS.—The Commission may use the United
10 States mails in the same manner and under the same con-
11 ditions as other departments and agencies of the United
12 States.

13 (f) ADMINISTRATIVE AND TECHNICAL SUPPORT
14 SERVICES.—Upon the request of the Commission, the Ad-
15 ministrator of General Services shall provide to the Com-
16 mission, on a reimbursable basis, the administrative and
17 technical support services necessary for the Commission
18 to carry out its responsibilities under this Act.

19 (g) FINANCIAL ASSISTANCE.—From any amounts
20 made available to the Commission, the Commission may
21 provide financial assistance, with or without consideration,
22 to any marine resource committee established in accord-
23 ance with section 8 on such terms and conditions as the
24 Commission considers appropriate.

1 **SEC. 8. MARINE RESOURCE COMMITTEES.**

2 (a) IN GENERAL.—The council or commission of each
3 of the counties referred to in section 5(a)(1) may establish
4 a marine resource committee in accordance with this sec-
5 tion for purposes of this Act. Each marine resource com-
6 mittee must have a balanced and technically competent
7 membership, and must be provided by its council or com-
8 mission, as applicable, with the mission and direction, ex-
9 pert assistance, and financial resources needed to—

10 (1) address marine ecosystem issues within its
11 county; and

12 (2) work to achieve the benchmarks set forth in
13 section 9(b)(2).

14 (b) REQUIRED AUTHORITY.—Each marine resource
15 committee established in accordance with this section
16 must be provided by its council or commission, as applica-
17 ble, sufficient legal authority to perform the following
18 tasks:

19 (1) Help assess marine resources problems in
20 concert with governmental agencies, tribes, and
21 other entities.

22 (2) Help identify local implications, needs, and
23 strategies associated with the recovery of Puget
24 Sound salmon and other marine species in the re-
25 gion of the Northwest Straits under the Endangered

1 Species Act of 1973 in concert with governmental
2 agencies, tribes, and other entities.

3 (3) Work with the Puget Sound Ambient Mon-
4 itoring Program and other entities to enhance the
5 scientific baseline and monitoring program for the
6 marine environment of the Northwest Straits.

7 (4) Identify current actions and the need for
8 additional measures.

9 (5) Work closely with county leadership to im-
10 plement local marine conservation and restoration
11 initiatives.

12 (6) Coordinate with the Northwest Straits Advi-
13 sory Commission on marine ecosystem objectives.

14 (7) Reach out to the public and other key con-
15 stituencies on the link between healthy marine habi-
16 tat and healthy resources and how marine protected
17 areas can play an important role in habitat protec-
18 tion.

19 (c) COMPOSITION.—

20 (1) IN GENERAL.—The membership of each
21 marine resource committee established in accordance
22 with this section must have the following attributes:

23 (A) Relevant scientific expertise.

24 (B) Balanced representation, including
25 representation of each of the following:

1 (i) Local governments, including plan-
2 ning staff from counties and selected cities
3 with marine shorelines.

4 (ii) Affected economic interests, such
5 as ports and commercial fishers.

6 (iii) Affected recreational interests,
7 such as sport fishers.

8 (iv) Conservation and environmental
9 interests.

10 (C) A constructive and knowledgeable
11 membership.

12 (2) TRIBAL MEMBERS.—The council or commis-
13 sion for each county referred to in section 5(a)(1)
14 shall provide to each recognized tribe that has a res-
15 ervation located in the county an opportunity to ap-
16 point a tribal representative as a member of the ma-
17 rine resource committee established by the county
18 pursuant to this section. The tribal authority of each
19 such tribe may make any appointment pursuant to
20 this paragraph.

21 (d) CHAIRPERSON.—Each marine resource commit-
22 tee established in accordance with this section shall select
23 a chairperson from among its membership by a majority
24 vote of the members of the committee.

1 (e) ANNUAL REPORT.—Not later than February 1 of
2 each calendar year, each marine resource committee estab-
3 lished in accordance with this section shall submit to the
4 Commission a report of the progress and activities of the
5 marine resource committee during the preceding calendar
6 year.

7 **SEC. 9. INDEPENDENT REVIEW AND REPORT.**

8 (a) REVIEW BY NATIONAL RESEARCH COUNCIL.—
9 Not later than 5 years after the date of the enactment
10 of this Act, the Under Secretary of Commerce for Oceans
11 and Atmosphere shall request the National Research
12 Council to provide an independent evaluation, in consulta-
13 tion with appropriate entities in the Northwest Straits re-
14 gion, to—

15 (1) review the extent to which the Commission
16 has fulfilled the benchmarks set forth in clause (2)
17 of subsection (b); and

18 (2) submit a report on the findings of that re-
19 view to the Congress, the Secretary of Commerce,
20 the Secretary of the Interior, and the Governor of
21 the State of Washington.

22 (b) BENCHMARKS.—

23 (1) INTENT.—The benchmarks set forth in
24 clause (2) of this subsection are intended—

1 (A) to be realistic and achievable standards
2 used to measure results of activities within the
3 purview of the Commission; and

4 (B) in some cases to utilize “input” meas-
5 ures such as the formation of marine resource
6 committees or the establishment of marine pro-
7 tected areas as well as “output” measures such
8 as species recovery data.

9 (2) SPECIFIC BENCHMARKS.—The benchmarks
10 set forth in this clause are the following:

11 (A) Broad county participation in marine
12 resource committees established in accordance
13 with section 8.

14 (B) Achievement of a scientifically based,
15 regional system of marine protected areas.

16 (C) Net gain in highly ecologically produc-
17 tive nearshore, intertidal, and estuarine habitat
18 in the Northwest Straits.

19 (D) Prevention of significant loss of exist-
20 ing, high-value habitat in the Northwest
21 Straits.

22 (E) Improvement of State, tribal, and local
23 tools to map, assess, and protect nearshore
24 habitat and prevent harm from upland activi-
25 ties.

1 (F) Net reduction in shellfish harvest
2 areas that are closed due to contamination.

3 (G) Measurable increases in factors sup-
4 porting recovery of bottom fish, including num-
5 bers of fish of broodstock size and age, average
6 fish size, abundance of prey species, and suffi-
7 cient amounts and quality of protected habitat.

8 (H) Increases in other key marine indica-
9 tor species, including those identified in the re-
10 port titled “Protection and Restoration of Ma-
11 rine Life in the Inland Waters of Washington
12 State”, prepared by Dr. James E. West and
13 published in May 1997 in the Puget Sound
14 Georgia Basin Environmental Report Series,
15 No. 6.

16 (I) Coordination of scientific data, includ-
17 ing a scientific baseline, common protocols, uni-
18 fied geographic information systems, and shar-
19 ing of ecosystem assessments and research.

20 (c) RECOMMENDATIONS.—The report under sub-
21 section (a)(2) shall include recommendations on a full
22 range of policy options to better protect the marine re-
23 sources of the region of the Northwest Straits.

1 **SEC. 10. REPORTS OF COMMISSION.**

2 (a) ANNUAL REPORT.—Not later than March 1 of
3 each calendar year, the Commission shall make available
4 to the public a report of the progress and activities of the
5 Commission during the preceding calendar year.

6 (b) FINAL REPORT.—Upon the termination of the
7 Commission, the Commission shall submit to the Presi-
8 dent and to the Congress a final report containing an over-
9 view of the work of the Commission during the life of the
10 Commission and containing any related information that
11 the Commission considers appropriate.

12 **SEC. 11. DEFINITIONS.**

13 For purposes of this Act, the following definitions
14 shall apply:

15 (1) COMMISSION.—The term “Commission”
16 means the Northwest Straits Advisory Commission.

17 (2) INDIAN TRIBE.—The term “Indian tribe”
18 has the meaning given that term in section 4(e) of
19 the Indian Self-Determination and Education Assist-
20 ance Act (25 U.S.C. 450b(e)).

21 (3) NORTHWEST STRAITS.—The term “North-
22 west Straits” means the marine waters of the Strait
23 of Juan de Fuca and of Puget Sound from the Ca-
24 nadian border to the south end of Whidbey Island.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act.

4 **SEC. 13. TERMINATION.**

5 The Commission shall terminate upon the expiration
6 of the 6-year period beginning on the date of the enact-
7 ment of this Act, unless reauthorized by the Congress.

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